

3 FAM 3640

UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEES

(TL:PER-416; 08-29-2001)

3 FAM 3641 Authority

(TL:PER-416; 08-29-2001)

(State Only)

(Applies to Foreign Service & Civil Service Employees)

The following authorities are cited:

- (1) 5 U.S.C. Sections 8501-8509; and
- (2) 20 CFR Part 609.

3 FAM 3642 Purpose

(TL:PER-416; 08-29-2001)

(State Only)

(Applies to Foreign Service & Civil Service Employees)

a. *The Unemployment Compensation for Federal Employees (UCFE) Program is under the direction of the Department of Labor (DOL) which provides for unemployment compensation (weekly income for a limited period of time) for Federal civilian service employees who become unemployed or furloughed through no fault of their own (as determined under State law) and who are ready, willing, and able to work.*

b. *The States, through agreements with the Secretary of Labor, act as agents of the United States in paying compensation in the same amount, on the same terms, and subject to the same conditions as the compensation that would be payable under the State unemployment compensation laws. The States also process claims and determine eligibility. Federal agencies are required to provide wage and separation information for the claims that are made. These regulations provide guidance to separated and furloughed employees about making a claim for unemployment compensation under the UCFE program and make clear Departmental responsibilities in connection with such claims.*

3 FAM 3641.3 Definitions

(TL:PER-416; 08-29-2001)

(State Only)

(Applies to Foreign Service and Civil Service employees)

Definitions are found at 5 U.S.C. Section 8501 and 20 CFR Section 609.2.

3 FAM 3641.4 Applicability

(TL:PER-416; 08-29-2001)

(State Only)

(Applies to Foreign Service and Civil Service employees)

a. Except as provided in paragraph b below, these regulations apply to all Civil Service and Foreign Service employees of the Department of State who are separated or furloughed. This includes personal service contractors, seasonal employees, employees under temporary appointments, limited non-career appointees, and those under family member appointments abroad.

b. These regulations do not apply to:

(1) Members of the Foreign Service who are involuntarily retired for expiration of time in class, or separated for failure to meet the standards of performance, or are separated in a reduction in force pursuant to sections 607, 608 and 611 of the Foreign Service Act, as amended, respectively for whom special separation allowances are provided under section 609 (b)(1) of the Foreign Service Act of 1980, as amended;

(2) Foreign Service National employees; and

(3) Employees who are not U.S. citizens and who perform service outside the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands and the District of Columbia.

3 FAM 3642 ELIGIBILITY AND DISQUALIFICATION

3 FAM 3642.1 Eligibility Requirements

(TL:PER-416; 08-29-2001)

(State Only)

(Applies to Foreign Service and Civil Service employees)

a. Generally, to be eligible to receive UCFE benefits, a separated or furloughed employee must:

- (1) Be a U.S. citizen;*
- (2) Be personally present in the United States, the Commonwealth of the Virgin Island, Puerto Rico or the District of Columbia;*
- (3) Have Federal civilian service and Federal wages in the base period under the applicable state law;*
- (4) Apply for UCFE benefits in the United States, the District of Columbia, Commonwealth of Puerto Rico, or the Virgin Islands;*
- (5) Meet the qualifying employment and wage requirements of the applicable State law, either on the basis of Federal civilian service and federal wages alone or in combination with service and wages under a State law;*
- (6) Be unemployed (or be employed less than full-time and earn less than an amount specified in the State law);*
- (7) Be available to work (i.e., ready, willing, mentally and physically able to accept work considered suitable because of past training, education, or experience);*
- (8) File an initial claim for UCFE and, as appropriate, file a timely claim for waiting period credit, or a payment of UCFE with respect to that week of unemployment; and*
- (9) Register for work at a State unemployment compensation insurance office and continue to report to that office, as directed.*

b. *The Department of State does not determine eligibility. Rather, the State in which the former employee files the claim makes eligibility determinations for unemployment compensation benefits. Each State has its own laws on eligibility criteria.*

3 FAM 3642.2 Where to File

(TL:PER-416; 08-29-2001)

(State Only)

(Applies to Foreign Service and Civil Service employees)

Former employees should contact and/or file a claim with their nearest State Employment Service or Unemployment Compensation Insurance claims office. Claims may be filed in every State, the District of Columbia, Puerto Rico, and the Virgin Islands. For former employees who worked abroad, a claim should be filed in the State in which the former employee claims residence. In some States, the former employee can file a claim by telephone.

3 FAM 3642.3 Disqualification

(TL:PER-416; 08-29-2001)

(State Only)

(Applies to Foreign Service and Civil Service employees)

State laws may disqualify an applicant for benefits for one or more of the following reasons:

(1) Quitting a job voluntarily without good cause connected with the work;

(2) Being discharged for misconduct connected with work;

(3) Refusing, without good cause, to apply for or accept an offer of a suitable job; or

(4) Resigning before receipt of a request to resign due to change in administration, leadership or Presidential transition (e.g., Schedule C appointments). However, Presidential appointees, non-career and limited term SES appointees and Schedule C employees who resign by request or are separated due to a change in agency leadership or as a result of the transition to a new Presidential administration may be eligible for UCFE benefits.

3 FAM 3642.4 General Benefits

(TL:PER-416; 08-29-2001)

(State Only)

(Applies to Foreign Service and Civil Service employees)

Benefits generally are determined by the State where the last official duty station of the employee's Federal employment was located. If the last official duty station was outside the United States, the District of Columbia, Puerto Rico or the Virgin Islands, the State where the claim is filed (employee's residence) will determine benefit rights. The weekly benefit amount and the number of week's during which benefits may be paid are determined under state law based on the employee's prior earnings.

3 FAM 3643 RESPONSIBILITIES

3 FAM 3643.1 Bureau and Post Human Resources or Administrative Officers-Agency Notification

(TL:PER-416; 08-29-2001)

(State Only)

(Applies to Foreign Service and Civil Service employees)

Bureau and Post Human Resources or Administrative Officers are responsible to:

(1) Notify each employee who is a U.S. citizen of his or her potential eligibility for unemployment compensation benefits upon separation or furlough;

*(2) Provide a complete copy of the Form SF-8, "Notice to Federal Employee About Unemployment Compensation" (Form SF-8) to each employee at the time of separation from Federal civilian service or when an individual is in non-pay status for seven consecutive days or more. On the SF-8, the box is completed as follows: "Department of State, 2401 E Street N.W., SA-1, Suite H-804, Chief, Human Resources Records Center, HR/EX/ADM/RM, Washington, DC 20522." **For Personal Service Contract (PSCs), employees SF-8 should indicate the hiring Bureau's name, address, and point of contact. The box identifies the Department of State office responsible for responding to requests from state unemployment insurance offices for wage and separation information;***

(3) *Provide each employee with a copy of Form SF-50, Notification of Personnel Action relating to the separation or furlough. Form SF-50 must clearly include the reason for separation in the remark column, and any eligibility for severance pay or an annual leave lump sum payment. For Civil Service employees, Form SF-50 should refer to any specific job offers made by the Department of State and refused by the employee. For Presidential and Schedule C appointees, there should be a reference and copy of the request for resignation, where applicable;*

(4) *Advise the employee to expedite his or her claim. He or she should inform the employee to bring their copy of the Form SF-8, their Social Security card, the official notice of separation from the Department of State (SF-50), and their latest Earnings and Leave Statement. These forms are needed in order to file an unemployment compensation claim with the appropriate State unemployment insurance office;*

(5) *Respond to inquiries and/or appeals from state unemployment insurance agencies and prepares appeals, as necessary. Bureaus and/or posts are encouraged to seek additional guidance, as needed, from the Office of Human Resources (HR/ER) and/or Office of the Legal Adviser (L/EMP) on a case by case basis.*

3 FAM 3643.2 Bureau of Human Resources (HR/EX/ADM)

(TL:PER-416; 08-29-2001)

(State Only)

(Applies to Foreign Service and Civil Service employees)

HR/EX/ADM:

(1) *Completes Form ES 931D, Request for Wage and Separation Documentation, from State unemployment insurance agencies after a claim has been filed by a former employee. This generally takes place within four working days after receipt. HR/EX/ADM then transmits the completed copy to the state agency. **For PSCs**, forwards the Form ES 931D to the appropriate hiring bureau for completion;*

(2) *Maintains control of all requests from State agencies for wage and separation information and the Department's response to each request;*

(3) *Forwards appeals, requests to be present for hearings and/or telephone hearings, or additional information to the appropriate hiring bureau; and*

(4) *Receives, reviews, and arranges for payment of the Department's quarterly bill for its share of UCFE benefits based on payment received by any former Department employee.*

3 FAM 3643.3 Office of Employee Relations (HR/ER)

(TL:PER-416; 08-29-2001)

(State Only)

(Applies to Foreign Service and Civil Service employees)

HR/ER is responsible to provide advice and guidance to bureau Executive offices and posts abroad, when necessary.

3 FAM 3644 APPEAL RIGHTS

(TL:PER-416; 08-29-2001)

(State Only)

(Applies to Foreign Service and Civil Service employees)

All State employment laws allow for administrative appeals of their terminations by former Federal employees or agencies. Refer to 20 CFR Section 609.7. An appeal must be filed in a timely matter, within the number of days specified by the State in which the claim is filed. A State appeals examiner makes a decision on the appeal again within in the time period provided under state law. There may be further levels of appeal within, under each State's laws.

3 FAM 3645 ADDITIONAL INFORMATION

TL:PER-000;-00-00-2001)

(State Only)

(Applies to Foreign Service and Civil Service employees)

a. *Additional UCFE information can be obtained from the Internet on the Department of Labor's websites. Websites:*

- (1) www.doleta.gov;*
- (2) <http://workforcesecurity>; and*
- (3) doleta.gov/unemploy/aboutui.asp.*

b. *The legal authorities can be found at the following websites:*

(1) 20 CFR part 609 is: <http://frwebgate.access.gov/egi-bin/get-cfr>;
and

(2) 5 U.S.C. 8501-8509 is: <http://www4.law.cornell.edu/uscode>

3 FAM 3646 THROUGH 3649 UNASSIGNED